United Nations S/PV.6650 (Resumption 1)

Security Council

Sixty-sixth year

Provisional

6650th meeting

Wednesday, 9 November 2011, 3 p.m.
New York

President:	Mr. Moraes Cabral	(Portugal)
Members:	Bosnia and Herzegovina	Ms. Đurbuzović
	Brazil	Mr. Vargas
	China	Ms. Liu Bing
	Colombia	Mr. Alzate
	France	Mr. Traffe
	Gabon	Mrs. Onanga
	Germany	Mr. Eick
	India	Mr. Kumar
	Lebanon	Mr. Ziadeh
	Nigeria	Mrs. Aguwa
	Russian Federation	Mr. Ustinov
	South Africa	Ms. Machaba
	United Kingdom of Great Britain and Northern Ireland	Mrs. Stevens
	United States of America	Mr. Donegan

Agenda

Protection of civilians in armed conflict

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The meeting resumed at 3.15 p.m.

The President: Under rule 37 of the Council's provisional rules of procedure, I invite the representatives of Armenia and Azerbaijan to participate in the meeting. I wish to remind all speakers to limit their statements to no more than four minutes in order to enable the Council to carry out its work expeditiously.

I now give the floor to the representative of Israel.

Mr. Prosor (Israel): At the outset, let me thank the Portuguese presidency and you personally, Sir, for convening this important debate, and President Cavaco Silva for having presided over the meeting this morning. I would like to thank the Secretary-General for his remarks, and all others the speakers who set the stage for today's discussion.

We sit here this afternoon in New York to discuss the vital importance of protecting civilians in armed conflict, as rockets continue to rain down on more than 1 million men, women and children in southern Israel. There is no question that Hamas and other terrorists in Gaza deliberately target civilians in these attacks. In the past two weeks alone, many dozens of Grad rockets and long-range missiles have been fired into the heart of major Israeli cities, onto the playgrounds of our kindergartens, and into the living rooms of our homes.

The pain caused by these attacks is permanent. The scars are both physical and psychological. Less than two weeks ago, a man was killed when a rocket exploded on top of his car in a city called Ashkelon. Many others have been injured in recent attacks. One million Israelis were compelled to stay home from work last week to ensure their safety, while 200,000 children were kept home from school.

These stories should shock and appal the Security Council and all decent people. Yet, surprisingly, not a single word of condemnation has been uttered by this Council — not one word. The silence speaks volumes. And as the rockets continue to roar out of Gaza, it is no coincidence that silence also echoes from the Ramallah headquarters of Palestinian Authority President Mahmoud Abbas.

One of the most fundamental human rights is the right of all people to live their lives without fear of terrorist attacks. Day after day, Israeli citizens are denied this right. Like any country, Israel has the inherent right and responsibility to defend its population. Yet, whenever we exercise our legitimate right to self-defence, Israel goes to extraordinary lengths to avoid harming civilians. Israel's Supreme Court and other independent mechanisms oversee all military operations, even during active combat, to ensure that they comply with our laws, values and obligations.

The contrast with the terrorists we face could not be clearer. When Hamas is not deliberately attacking Israeli civilians, it is oppressing and endangering its own people. For Hamas, the people of Gaza serve as permanent human shields. Schools have become launching pads for rockets, homes have become experimental weapons laboratories, and mosques have become missile storage lockers. Entire residential neighbourhoods have become bases for terror.

Hamas and other terrorists in Gaza show the same blatant disregard for the safety of international organizations. They abuse access privileges and insignia, endangering international humanitarian personnel and obstructing the movement of aid.

Underlying the violence that continues to emanate from Gaza is a deeply rooted culture of incitement. Just two weeks ago, Wafa al-Biss was released from prison as part of Israel's exchange for the release of our kidnapped solider, Gilad Shalit. She had been serving a sentence for trying to blow herself up in an Israeli hospital. Moments after arriving in Gaza, she told a crowd of cheering schoolchildren at a Hamas rally: "I hope you will walk the same path that we took and, God willing, we will see some of you as martyrs". These are the poisonous values that are being fed to the next generation of children in Gaza. When Israel looks at children, we see the future. When Hamas looks at children, they see suicide bombers and human shields.

Incitement is not confined to Gaza. It also pervades the official institutions of the Palestinian Authority in the West Bank and many other corners of our region. In schools, mosques and the media, generation after generation of children across the Middle East have been taught to hate, vilify and dehumanize Israelis and Jews. The international community has a duty to end that culture of incitement. We need education that promotes peace instead of hate,

tolerance instead of violence, and mutual understanding instead of martyrdom.

In Syria, Bashar Al-Assad remains the world's only ophthalmologist dedicated to cutting his people's vision of hope and freedom. His regime is slaughtering his people in the streets day after day. Yet, some members of the Council remain blind to his brutality. The Syrian people's cries must not go unheard.

The great Jewish philosopher Samuel ibn Naghrela once said, "the truth can hurt like a thorn, at first; but in the end it blossoms like a rose". It is time for the Security Council to speak the complete, unvarnished and sometimes difficult truths about those who ruthlessly target and employ civilians in armed conflict. The Governments and terrorist organizations that display such callous disregard for human life should find no refuge in this Chamber. Let us bring new clarity to this debate, for the sake of our children, our security and our common future.

The President: I now give the floor to the representative of Austria.

Mr. Riecken (Austria): I would like to thank you, Mr. President, for Portugal's commitment and efforts in the preparation of this debate, including organizing a very fruitful workshop on accountability for violations of international humanitarian and human rights law and the Council's role therein. Let me also express our appreciation to the Secretary-General, High Commissioner Pillay, Assistant Secretary-General Bragg and the representative of the International Committee of the Red Cross for their very instructive briefings.

Austria aligns itself with the statements made or to be delivered on behalf of the European Union, the Group of Friends on the Protection of Civilians and the Human Security Network.

We very much welcome the focus of today's debate on accountability for serious violations against civilian populations. In the light of her Office's role in an impartial monitoring of human rights violations and fact-finding, we are particularly pleased about the participation of High Commissioner Pillay in this debate.

As the Council is aware, the protection of civilians was one of Austria's priorities during our membership in the Security Council. Resolution 1894 (2009) clearly recognizes the role of the Council in ending impunity. As outlined in the Secretary-General's latest report (S/2009/277) on the protection of civilians, the mandating of commissions of inquiry by the Council is an important step towards ensuring that perpetrators are held to account, either at the national or international level, while drawing on the full range of justice and reconciliation mechanisms. We call on the Council to ensure a systematic and firm response in cases of serious violations and, to that end, to use the full range of tools at its disposal. Also, we would like to underline the importance of reparations for victims of violations of international humanitarian and human rights law, which might take various forms.

Let me say that international mechanisms for monitoring compliance with international humanitarian law and providing reparations for victims of violations will also be dealt with at the thirty-first International Red Cross and Red Crescent Conference, to be held in Geneva at the end of this month. We look forward to that discussion.

Let me take this opportunity to thank the Office for the Coordination of Humanitarian Affairs and the Department of Peacekeeping Operations for their consistent work and support in enhancing the implementation of protection mandates. The training modules on the protection of civilians, as well as on sexual violence, will be crucial for better preparing United Nations peacekeeping personnel for those tasks. Furthermore, we look forward to the guidance on reporting on the protection of civilians for United Nations peacekeeping and other relevant missions. It will contribute to ensuring systematic and comprehensive reporting on the protection of civilians, and thus allow for appropriate action and firm responses by the Council in cases of serious violations committed against civilian populations.

On our part, we in Austria have taken first steps to design adequate training modules for our peace workers in the field. An interdisciplinary training programme on the protection of civilians will be finalized in 2012. The programme will be designed for management and key personnel in various fields of responsibility and should allow those actors to better translate protection mandates into operational reality.

In conclusion, allow me to address two issues of particular concern for Austria. First, with regard to the threat posed to civilians by explosive weapons, explosive remnants of war such as cluster munitions

continue to endanger the lives and well-being of civilians, even decades after their use. The adoption of the Convention on Cluster Munitions was therefore a landmark in international humanitarian law with regard to the protection of civilians. In that light, Austria is deeply concerned about the draft text for an alternative legal instrument on cluster munitions to be considered by the upcoming Review Conference of the Convention on Certain Conventional Weapons. As currently drafted, that protocol on cluster munitions would clearly undermine the existing international norms against cluster munitions and would contradict the humanitarian objective of the Convention on Certain Conventional Weapons aimed at the protection of civilians.

Secondly, with regard to attacks against journalists, the increase in the targeted killing of journalists in recent years — both in conflict situations and in times of peace — is a worrying development. Impunity for those responsible for attacks constitutes the biggest obstacle for effective protection. As suggested by the Secretary-General in his latest report on the protection of civilians in armed conflict, we believe that the Human Rights Council has an important role to play in strengthening the protection of journalists. We have therefore decided to make the protection of journalists one of our priorities during our membership in the Human Rights Council. Our objective is to strengthen the protection framework for journalists through concrete initiatives, which will focus on the fight against impunity as well as on preventing future crimes against journalists. We look forward to closely cooperating with interested Member States, civil society and other stakeholders in preparing the initiative.

The President: I now give the floor to the representative of Honduras.

Ms. Flores (Honduras) (*spoke in Spanish*): We would like to express our appreciation to your delegation, Mr. President, as well as to Portugal, for the timely initiative to organize this important open debate on the responsibility to protect and the protection of civilians in armed conflict. We also welcome the presence here this morning of His Excellency President Aníbal António Cavaco Silva of Portugal and of the Secretary-General, as well as that of High Commissioner for Human Rights Navanethem Pillay, Assistant Secretary-General for Humanitarian Affairs Catherine Bragg, and of Mr. Philip Spoerri, Director for International Law and Cooperation of the International Committee of the Red Cross. Their participation is a forceful affirmation of the urgent need to address the sensitive issue before us today.

We can state without any doubt that the most recent armed conflicts that have unfortunately broken out in various parts of the world, and which we have seen grow with feelings of sadness and disbelief, have touched the conscience of the entire world. All confrontations that claim lives cast shadows over the universal desire for harmonious coexistence among all peoples and the search for peaceful solutions to differences, especially when there are innocent victims and unprotected civilians who are pulled in by the maelstrom of a brutal confrontation.

Such horrendous acts of repression and indiscriminate State violence against innocent civilians, in utter neglect of the responsibility to protect human life — especially unarmed non-combatants — present a painful scenario that cries out for greater involvement by the international community. The Security Council plays a guardianship role in the fervent quest for international peace. Seeking and maintaining that peace are essential to creating a more stable and secure world that guarantees collective well-being.

At this point along the path we have traced since 51 countries founded the United Nations, we would wait in vain for the realities of our day to resemble the circumstances of that time, or for the post-Second World War model to satisfy the expectations of the 193 States that today make up the Organization. If indeed we want our resolutions to carry greater credibility and legitimacy, then it makes no sense, in the twenty-first century, to carry on with "provisional" rules of procedure. Because we believe that it is imperative to preserve the Organization's institutional integrity, we cannot evade the need to make decision-making processes more transparent and democratic. They must be updated at every procedural stage in order to bring them into line with new experiences and the developments that the world has undergone to date.

We must overcome the distrust that has paralyzed us so many times, so as to find solutions to pressing conflicts. The urgent duty to preserve lives and to rescue vulnerable populations fighting for survival, in appalling helplessness, demands robust actions, decisions and procedures — and ones that do not come so late that nothing is left but to place wreaths on the

graves of hundreds of thousands of innocents who died for lack of the urgent help they cried out for.

Having said that, we do not mean to take any credit away from the Council for the fair and courageous decisions it has taken aimed at saving lives, just as we highlight the efforts launched at previous meetings. We take note of the fact that the Under-Secretary-General for Peacekeeping Operations has informed us that the Secretariat has finished drafting a conceptual framework for the responsibility to protect as part of a comprehensive strategy that includes setting up protection training modules. It is encouraging to learn that consultations are being held with troop-contributing countries on requirements for the protection of civilians.

Normally, human rights violations are among the main drivers of conflicts. The Security Council recently held an open debate on the protection of children in armed conflict (see S/PV.6581) and adopted resolution 1998 (2011). A step forward would be to expand the listing criteria to include parties to a conflict who attack schools and hospitals. Although the Council has decided to broaden the provisions of sanctions regimes in connection with violations of international law in the context of the protection of children, it is worth mentioning that there is still room to broaden such protection mechanisms. We commend the presidential statement adopted at the conclusion of the Council debate of 28 October on women and peace and security (S/PRST/2011/20), which condemns all violations of applicable international law against women and girls in situations of armed conflict.

International peace and security require the institutional reliability and strength that over the years since the Second World War we have instituted and built up at the United Nations. The Charter expresses no small wish when it assigns the United Nations the duty to save succeeding generations from the scourge of war. For that reason — with so much apocalyptic talk, with a lack of civility in dealing with differences and of brotherhood in living together, and with the abuse of the planet's precious resources — we must, today more than ever, pledge to renew that lofty commitment, so that it rises to the scope of the challenge we originally took on. It must be the right fit — neither so big that it falls off nor so small that it chafes.

The President: I now give the floor to the representative of Bangladesh.

Mr. Ali (Bangladesh): I congratulate your country, Sir, on its assumption of the presidency of the Security Council for the month of November. I especially thank the President of Portugal for presiding over this important meeting this morning. I also express the appreciation of my delegation to Secretary-General Ban Ki-moon, High Commissioner for Human Rights Navanethem Pillay, Assistant Secretary-General for Humanitarian Affairs Catherine Bragg and Director for International Law and Cooperation at the International Committee of the Red Cross Philip Spoerri for their excellent presentations on this topic.

The protection of civilians is a basic principle of humanitarian law. The 1949 Geneva Conventions and their 1977 additional Protocols contain specific rules to protect civilians. In situations that are not covered by those treaties, in particular internal disturbances, civilians are protected by the fundamental principles of humanitarian law and human rights law.

Peacekeeping operations are one of the most important tools available to the United Nations to protect civilians in armed conflict. Resolution 1894 (2009), resolutions relating to children and armed conflict and to women and peace and security, the mandating of peacekeeping missions to protect civilians, the creation of the informal expert group on the protection of civilians and the adoption of aides-memoire on the protection of civilians have been important steps forward. However, more needs to be done in the implementation of peacekeeping mandates and to fill protection gaps.

Of the current seven United Nations peacekeeping operations with a protection mandate — in Côte d'Ivoire, the Democratic Republic of the Congo, Haiti, Lebanon, Liberia, South Sudan and Darfur — five have developed comprehensive strategies on the protection of civilians. Those five are the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the African Union-United Nations Hybrid Operation in Darfur (UNAMID), the United Nations Mission in South Sudan, the United Nations Operation in Côte d'Ivoire and the United Nations Interim Force in Lebanon.

However, in spite of those positive developments, challenges in the field continue. Last year, UNAMID

and MONUSCO continued to experience difficulties in implementing their protection mandates. It remains to be seen whether the new policy documents developed in New York have a tangible impact on how peacekeeping operations are conducted at the field level. In that regard, the establishment of the new United Nations Mission in South Sudan, which includes a protection-of-civilians mandate, will be an important test case for United Nations peacekeeping. We feel that adequate capacity will be the most important element for the effective protection of civilians.

We have observed two noticeable initiatives by the Council since it held its last debate on this topic in May (see S/PV.6531). First, resolution 1998 (2011), adopted in July, expanded the listing criteria in the Secretary-General's reports on children and armed conflict to include parties to conflict who attack or threaten schools and hospitals. Secondly, during its annual debate on women and peace and security last month (see S/PV.6642), the Council adopted a presidential statement (S/PRST/2011/20) on women's participation in conflict prevention, management and resolution, in which it reiterated its condemnation of all violations of applicable international law committed against women and girls in situations of armed conflict. As I commend those developments, may I add that the presence of uniformed female personnel may also play a pivotal role in a State's ability to protect its citizens. I take this opportunity to refer to the efforts of the all-female formed police unit from Bangladesh working in the peacekeeping Mission in Haiti.

My delegation would like to highlight a few issues to ensure the protection of civilians in armed conflict. The first relates to prevention and the building of a culture of peace. Prevention is at the heart of protection. The preventive capacity of the Organization must be enhanced. At the same time, Member States need to take steps to inculcate the values of peace, tolerance and harmony that contribute to long-term prevention.

Secondly, the effectiveness of United Nations peacekeeping operations should be enhanced. Given that Bangladesh is one of the largest troop-contributing countries, my delegation feels that the main challenge to the implementation of protection mandates is the lack of adequate resources.

Thirdly, we also believe that there needs to be a closer dialogue between the Council and troop-contributing countries, as they can provide valuable information about the situation on the ground.

Fourthly, compliance with international legal obligations by parties to conflicts must be enhanced and accountability mechanisms should be strengthened. Fifthly, international efforts, including those involving the use of force, should be a last resort, respecting the relevant provisions of the Charter of the United Nations, since the country concerned has primary responsibility for protecting its civilian citizens.

Finally, my delegation urges all parties to conflicts to comply strictly with international humanitarian, human rights and refugee law in order to ensure protection of the lives and property of civilians and their unimpeded access to humanitarian aid. We call on parties to conflicts to strengthen the protection of civilians through heightened awareness at all levels, particularly through the training, orders and instructions given to armed forces.

The President: I now give the floor to the representative of Canada.

Mr. Rivard (Canada): I would like to thank Portugal for convening this open debate today. Canada welcomes the opportunity to focus on accountability issues related to the protection of civilians. The evolving situation in Libya and the ongoing protection challenges in countries such as Somalia, Yemen, Syria, Côte d'Ivoire and Afghanistan demonstrate the need for sustained international attention to meet the protection needs of populations affected by violence and armed conflict.

Violations of human rights and international humanitarian law, including rape as a weapon of war and other acts of sexual violence, continue to occur at an alarming rate. Those who commit such acts must be held to account for their actions. In his November 2010 report (S/2010/579), the Secretary-General identified a number of key recommendations for enhancing accountability to better protect civilians. I would like to draw attention to a number of issues and country-specific contexts that we consider particularly important.

First, it is important that we acknowledge that progress has been made in advancing a legal framework for civilian protection. This has allowed us

to take decisive action to protect civilians. Libya offers a key example of how the international community can work together successfully to achieve a common purpose. Resolution 1973 (2011) mandated the use of all means necessary to protect civilians under threat of attack in Libya. Resolution 1973 (2011) and, before that, resolution 1970 (2011), sent a clear message to the then Libyan regime, and to the wider international community, that deliberate and targeted attacks on civilian populations and gross violations of human rights carry serious consequences. Canada is proud to have played a key role in Libya, both politically and militarily, in protecting civilians against a cruel and oppressive regime.

Yet despite some successes of that kind, implementation gaps remain all too often in our efforts to ensure that our collective words of support are effectively translated into concrete actions. The Council must continue to exercise the range of options it has at its disposal to prevent and stop violence against civilians in armed conflict, including mediation and diplomatic missions, sanctions, United Nations mandated missions and, when necessary, the use of force.

Secondly, it is also important that those who commit violent and deadly attacks on aid workers be brought to justice. The attack on the Office of the United Nations High Commissioner for Refugees (UNHCR) in Kandahar, Afghanistan, on 31 October served as a reminder of the great risks run by those who work tirelessly to deliver humanitarian assistance. Tragically, three UNHCR staff lost their lives in the attack, and our condolences go out to the families of the deceased. Those attacks underscore the importance of continued and sustained cooperation between the international and Afghan security forces in ensuring that civilians are protected from indiscriminate acts of violence. Canada is proud to play a role in Afghanistan through our work in training the Afghan National Security Forces so that they are capable of protecting all civilians in the country, while ensuring that those who target civilians are brought to justice.

Thirdly, we must be unrelenting in denouncing violence directed against women and girls in acts such as sexual violence, including rape as a weapon of war, sexual slavery, enforced prostitution, forced pregnancy and enforced sterilization. We will continue to promote the empowerment of women and girls. In Afghanistan, for example, Canada has frequently stressed the need for the Afghan Government to promote and protect human rights, including freedom of expression and religious belief. Canada supports programmes designed to implement Afghanistan's 2009 law on eliminating violence against women and to help Afghan human rights institutions promote equal rights for all citizens and investigate and act on violations.

(*spoke in French*)

Fourthly, we must vigorously defend the rights of vulnerable religious minorities in situations of armed conflict who are persecuted for their religious beliefs. We also encourage key United Nations actors to develop strategies to tackle the persecution of religious minorities more effectively, with a view to preventing their displacement. Our Minister for Foreign Affairs, Mr. John Baird, emphasized in his address to the General Assembly during the general debate (see A/66/PV.26) that the Canadian Government is in the process of establishing an Office of Religious Freedom within the Department of Foreign Affairs and International Trade that will serve to promote the protection of the freedom of religion as a key objective of Canada's foreign policy.

Fifthly, for our efforts to succeed in the long term, we must find ways of strengthening accountability mechanisms in national jurisdictions. It is the primary responsibility of every State to investigate those suspected of genocide, crimes against humanity and war crimes and to bring them to justice. The recent sentencing of four former military officers for their role in a massacre of civilians during the armed conflict in Guatemala — the first such conviction of military officers in that country — is a good example of national accountability mechanisms at work. That underlines the need for States to meet their obligations to investigate and prosecute persons suspected of serious international crimes, and where appropriate, cooperate with international institutions to ensure that those responsible face justice.

Finally, Canada also supports the Secretary-General's call for Member States, United Nations agencies, international organizations and non-governmental organizations to continue to work to better understand and address the impact of explosive remnants of war in populated areas. Canada is supporting such efforts in concrete and meaningful ways. Most recently, our Prime Minister announced that we will be contributing Can$10 million to help secure weapons of mass

destruction and remove and dispose of explosive remnants of war in Libya. These measures are essential for ensuring that civilians are protected and Libya can move forward.

It is essential that we back our principles with concrete action. Vulnerable populations around the world must be able to rely on the Security Council's continued attention and sustained efforts. And the Council can continue to rely on Canada to support its efforts to protect civilian populations and to promote freedom, democracy, human rights and the rule of law on a global scale.

The President: I now give the floor to the observer of the European Union.

Mr. Mayr-Harting (European Union): I have the honour to speak on behalf of the European Union (EU) and its member States. The candidate countries Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Iceland, the countries of the Stabilisation and Association Process and potential candidates Albania and Bosnia and Herzegovina, as well as the Republic of Moldova, align themselves with this statement.

We are grateful to the Secretary-General, the High Commissioner for Human Rights, the Assistant-Secretary-General for Humanitarian Affairs and the Director of International Law and Cooperation of the International Committee of the Red Cross for their introductory statements.

We align ourselves with the following quote from the recent Fourth Committee statement on peacekeeping made by Côte d'Ivoire, a country whose citizens were under siege earlier this year and where peacekeepers implemented their mandate to protect them with resolve and with results. In his statement, the representative of Côte d'Ivoire said:

(*spoke in French*)

> "Today, the protection of civilians in armed conflict undeniably lies at the very heart of peacekeeping operations and requires the adoption of concrete effective measures to properly fulfil that mandate. The widespread danger to which the civilian population was exposed during the post-election crisis in Côte d'Ivoire emphasizes the relevance of that new mandate and strikingly illustrates the pressing need for the international community to work together to adopt urgent and effective measures to ensure legitimacy and uphold international law."

(*spoke in English*)

It is estimated that, in contemporary armed conflicts, 90 per cent of the casualties are civilians and only 10 per cent are active combatants. In Côte d'Ivoire, as in Libya and other countries, the Council saved lives by mandating the protection of civilians. In doing so, it upheld what the International Court of Justice has described as one of the intransgressible principles of customary international law.

Another international court, the International Criminal Tribunal for the Former Yugoslavia, concluded that the obligation to protect the civilian population was in force not just during an international conflict, but also during times of national strife. We call on all parties to conflict, including non-State actors, to fully comply with their international legal obligations to protect civilians and to prevent violations of human rights and of international humanitarian law. Compliance with international humanitarian law also contributes to securing and sustaining humanitarian space and access. International law first and foremost tasks sovereign States with the protection of civilians — it is their job to do it and to do it well.

At the same time, international law asks the international community to play a role in ensuring that the protection of civilians is respected, which for various reasons is unfortunately not always the case. For example, in Syria today we see a brazen regime that is brutally repressing its own people and violating their human rights. That violence must stop now and those who wield it in order to hang on to power must be held accountable. We urge the Council to shoulder its responsibilities and to take robust action in situations of human rights violations. As the Secretary-General has said,

> "in many conflicts it is to a large degree the absence of accountability, and, worse still, the lack in many instances of any expectation thereof, that allow violations to thrive." (*S/2010/579, para. 82*)

Aside from delivering justice for its own sake, accountability also acts as a deterrent from future injustice. Fighting impunity should therefore be an important priority at both the national and international

levels. When States cannot or will not bring perpetrators to justice, the international community should be able to act. In that regard, we continue to call on those that have yet to accede to the Rome Statute of the International Criminal Court to do so, and on all Member States to extend their full cooperation to the Court.

Commissions of inquiry can be a helpful tool to pave the way for national or international prosecution. That is why, as the Secretary-General recommended last year, the Security Council should not hesitate to mandate them. To be sure, accountability is not just about investigation, prosecution and meaningful reparations. It is also about assisting countries in promoting the rule of law, because in the long run that is the best way to help to promote the protection of civilians. When the rule of law is strong enough, civilians do not have to depend on the benevolence of their rulers or on Security Council resolutions — they will be protected under the law.

As we have seen over the past decade, peacekeeping operations can play an important role in establishing and strengthening a legal and political framework under which all individuals and institutions, including the State itself, are accountable. We need to make that framework also work for vulnerable groups, including women, children, internally displaced persons and detainees, thereby ensuring that they have access to justice.

Aside from the rule of law tasks assigned to most missions, several are also expressly mandated to protect civilians. Thanks to the work accomplished by the United Nations membership in the Special Committee on Peacekeeping Operations and in the Security Council, we have moved beyond the conceptual stage. Now it is about further improving the way that protection-of-civilians mandates are implemented, building on what certain missions have already been doing. Missions need clear and practical guidance.

As the scenario-based training package is rolled out this fall and as relevant missions translate the strategic framework operation-specific strategies, we look forward to seeing concrete results. Let me point to the landmark resolution 1894 (2009), in the drafting of which I had the honour to be involved, in my former capacity. Pursuant to that resolution, all relevant United Nations operations should develop specific benchmarks against which to measure and review progress in the implementation of mandates to protect civilians. That need is particularly acute in the context of mission drawdown. To further enhance the implementation of protection-of-civilians mandates, we also encourage missions to sharpen and strengthen their early-warning instruments. All too often, the new generation of peacekeeping operations still relies on old-generation tools. The systematic use of modern monitoring and surveillance technologies could greatly increase the capacity of the United Nations to prevent atrocities.

As the United Nations continues to work on building that capacity, we will keep a close eye on its efforts, not only because we want United Nations peacekeeping to become more effective, but also because we want to draw lessons for our own European Union missions and to revise guidelines. That will help us to better protect civilians and to become better partners in that regard with the United Nations and other regional organizations, especially the African Union.

The President: I now give the floor to the representative of Luxembourg.

Mr. Maes (Luxembourg) (*spoke in French*): Luxembourg fully aligns itself with the statement just delivered by the observer of the European Union.

We warmly congratulate the Portuguese presidency of the Council for organizing this bi-annual debate on the protection of civilians, which has taken on particular importance against the backdrop of the developments in North Africa and the Middle East in recent months.

The Security Council assumed its responsibilities by authorizing, in resolution 1973 (2011), the operation to protect civilians in Libya. The determined intervention of the international community made it possible to save the lives of countless Libyan men, women and children. The international community had to act. As the Deputy Prime Minister of Luxembourg stated in the General Assembly in September,

> "We did not want to reproach ourselves yet again for having hesitated too long, for having neglected our responsibility to protect those unable to defend themselves against the cruelty of their own authorities. We did not want once again

> to be the powerless witnesses of large-scale violence." (*A/66/PV.24, p. 2*)

We must now support the new Libya along the difficult path towards democracy and the rule of law.

Enhancing the protection of civilians in armed conflict lies at the heart of the Council's work to maintain international peace and security, not only in the Libyan context. The protection of civilians is the noblest task of our peacekeepers, and possibly the most difficult and the most delicate.

We therefore commend the Council for giving peacekeeping operations increasingly explicit mandates to protect civilians. The Council has an excellent tool, the aide-memoire (S/PRST/2009/1, annex), to do so in a systematic and coherent fashion. Is it essential to translate the mandates set by the Council into rules of engagement on the ground that enable Blue Helmets to successfully discharge their protection-of-civilians mandate. While the expectations of the populations in areas where peacekeeping operations are deployed are enormous, the resources available to our peacekeepers are often too limited.

In that regard, we commend the initiatives taken in recent years by the Department of Peacekeeping Operations, in cooperation with the Special Committee on Peacekeeping Operations and in consultation with the Security Council, to better prepare the military, police and civilian personnel deployed under the auspices of the United Nations for their task of protecting civilians. They do so in ever more complex environments and conflicts, in which civilians continue to be the first victims of the acts of violence committed by parties to the conflict.

The efforts of the Council to better protect children in armed conflict and to fight sexual violence in conflicts are part and parcel of the agenda for the protection of civilians. We encourage the Council to continue to press ahead on all these fronts and to continue to include violations of human rights and of international humanitarian law as criteria for imposing targeted sanctions.

United Nations peacekeeping operations, however many and however big they may be, will unfortunately never be enough to protect all civilians who are victims of violation of their fundamental rights during armed conflicts across the globe. Therefore, we must spare no effort in fighting impunity of the perpetrators of these crimes wherever they may be. Important progress has been made through the prosecution of the perpetrators of these crimes in national, international and mixed criminal tribunals, commissions of inquiry, and specialized chambers in national tribunals.

The unanimous decision by the Security Council to refer the situation in Libya since 15 February 2011 to the Prosecutor of the International Criminal Court sent a clear signal to the Qadhafi regime and to all combatants in Libya that they will be have to answer for their acts. The international community will not tolerate impunity for the most serious crimes. The important preventative function of the activities of these mechanisms and bodies deserves to be highlighted as well.

Allow me to conclude by paying tribute to all the men and women, at all levels of the hierarchy of peacekeeping operations, who through their courageous presence and their decisive action strive day after day to give the civilian population during armed conflict a sense of security, and thereby human dignity.

The President: I now give the floor to the representative of Mexico.

Mrs. Morgan (Mexico) (*spoke in Spanish*): My delegation would like to thank the President of Portugal, His Excellency Aníbal Cavaco Silva, for convening this debate. We welcome the reports presented by the High Commissioner for Human Rights, Ms. Navi Pillay, the Assistant Secretary-General for Humanitarian Affairs, Ms. Catherine Bragg, and the Director for International Law and Cooperation of the International Committee of the Red Cross, Mr. Philip Spoerri.

Over the last four years, in over 60 countries, there have been armed conflicts in which the civilian population has been most affected by the havoc and suffering caused. Mexico expresses its concern at the increasingly frequent and deliberate attacks on civilians, the destruction of infrastructure and assets that are essential for their survival, forced displacement, and the methods and means of indiscriminate war that are employed, particularly in populated areas.

It is essential to guarantee respect for the principles of distinction, proportionality, military

necessity and limitation. Violations do not arise only from the conduct of hostilities, but are also closely linked with the use of increasingly sophisticated weapons that have indiscriminate effects. Explosives in densely populated areas and cluster munitions are but two examples of weaponry the use of which totally ignores these basic principles.

The existing international instruments regarding international humanitarian law provide a solid basis of principals and standards that should be respected by all parties to a conflict. The lack of application of international humanitarian law and the restrictive and inexact interpretation by the parties in armed conflicts are the main generators of serious violations of this set of standards, to the detriment of the civilian population.

Mexico agrees with the Secretary-General that it is appropriate to focus this debate on measures to promote accountability in the light of violations of international humanitarian law and of the human rights of civilian populations. Ending impunity is essential for a society in conflict or in a post-conflict situation that seeks to repair the damage caused by abuses of the past, to prevent repetition of such abuses and to create a solid culture of respect for human rights.

States have a primary responsibility to prosecute those responsible for the commission of violations of international humanitarian law, including war crimes. Therefore all States should have a national legal framework that appropriately reflects such provisions and facilitates their implementation. In this regard I am pleased to report that my country is working on a draft reform of federal criminal legislation for the classification of international crimes. The intent is to ensure that national legislation takes into account not only the applicable provisions of the Rome Statute but also the complementary substantive standards contained in other international instruments to which Mexico is a party.

The primary obligation of States goes hand in hand with the responsibility of the international community, in particular of the Security Council on this subject.

The Security Council must promote concrete measures to ensure accountability, such as measures to further the rule of law and transition justice in post-conflict situations. Likewise, it should strengthen the mandates of the peacekeeping missions so as to provide them with strategies for monitoring and oversight on the ground in terms of civilian protection.

The Security Council can also establish investigation commissions and turn to the International Humanitarian Fact-Finding Commission. Likewise, the Council, under the Rome Statute, can refer situations to the International Criminal Court. That is a useful tool in efforts to prevent future violations of international humanitarian law.

I conclude by affirming that our obligation to respect, and ensure respect for, international humanitarian law means that we must use the tools that we have at our disposal to ensure international peace, security and justice, but also we must formulate a solid culture of respect that eradicates impunity and repairs the harm done to civilians affected by armed conflict.

The President (*spoke in Spanish*): I now give the floor to the representative of Peru.

Mr. Aquino (Peru) (*spoke in Spanish*): May I begin, Mr. President, by thanking you for organizing this open debate. I also thank the Secretary-General for his statement, and Ms. Navanethem Pillay, High Commissioner for Human Rights, Ms. Catherine Bragg, Assistant Secretary-General for Humanitarian Affairs, and Mr. Philip Spoerri, Director for International Law and Cooperation of the International Committee of the Red Cross, for their presentations.

We have been seeing a series of conflicts around the world in which, unfortunately, civilians, including women and children, continue to be the victims of attacks and violations of their fundamental rights, including the right to life.

Despite regular meetings held by this forum to discuss this subject, it is clear that the United Nations can and should do more on the ground to respond to needs related to protection of civilians in armed conflicts. The determination of mechanisms and operational guidelines for the protection of civilians in armed conflict and the recommendations adopted by the Special Committee on Peacekeeping Operations are a concrete demonstration of what the Organization can do in tackling this delicate subject.

However, despite these major steps forward, we must clearly point out that most of them occur essentially at a normative or legislative level. These advances contribute to a better understanding and development of the common conceptual framework

that we seek. However, we must be aware that many challenges remain to be dealt with, so we must concentrate our efforts on implementing the norms. In other words, we must do more concrete work on the ground. It involves specifically preventing threats to the lives of civilians in situations of armed conflict.

As has been pointed out repeatedly, the protection of civilians is a fundamental aspect for achieving peace, for the sustainability and viability of political processes and for the credibility and legitimacy of this Organization.

While the parties to a conflict have an obligation and responsibility to adopt the measures necessary to protect civilians and facilitate humanitarian aid, political commitment must also be bolstered not only among the parties but also within this Organization, primarily the Security Council, bearing in mind that, as stated in resolution 1894 (2009), deliberate targeting of civilians and the commission of systematic violations of international humanitarian and human rights law in situations of armed conflict may constitute a threat to international peace and security.

In this regard, it is essential that protection of civilians mandates be clear, feasible and precise so that they can be implemented in a way that is not subject to interpretation by actors on the ground. Likewise, it is important that these mandates provide for the appropriate and sufficient allocation of the resources needed to carry them out and that they reflect existing limitations in order not to create expectations beyond the capacity of missions to deliver, particularly in terms of the use of force.

We are also of the view that it is important to develop the analytical preventive dimension prior to the deployment of a mission mandated to protect civilians, with a view to ensuring the best possible knowledge of the parties to the conflict, as well as the reasons and circumstances of the conflict. That will allow for specific and appropriate mandates and better coordination on the ground in order to deal with the obstacles that prevent the provision and delivery of humanitarian aid. As part of this preventive analysis, it is also necessary to continuously assess the threats on the ground both to civilians and to actors who participate in their protection, particularly in peacekeeping operations.

Another aspect that must be addressed when we talk about the protection of civilians relates to combating impunity. In this regard, Peru considers it necessary to improve and step up the fight against impunity for violations of international humanitarian and human rights law and the responsibility to protect civilians. We should not forget that there is an international criminal responsibility for such violations.

That is why the international community has provided for mechanisms through the four Geneva Conventions of 1949 and their Additional Protocols, as well as in international customary law, so that States can prosecute and punish those responsible for war crimes. Moreover, through the Rome Statute of the International Criminal Court, jurisdiction has been established for that supranational body to prosecute those who commit war crimes, regardless of which party to the conflict commits them, under the principle of complementarity and through effective cooperation with the Court.

My delegation affirms the importance of the periodic holding of these debates and reiterates its view that it is necessary to add value to them by seeking to move beyond the mere formal exchange of positions to the drafting of documents that underpin real and concrete progress that can be felt by civil society, on whose behalf we are meeting here today.

The President: I now give the floor to the representative of Norway.

Mrs. Smith (Norway): A major obstacle to strengthening the protection of civilians in armed conflict is a general lack of respect for international humanitarian law and the way in which its rules are interpreted and implemented. Another challenge is to continue efforts to further strengthen international humanitarian law.

There can be no doubt that the protection of civilians must include conflict and post-conflict situations alike. Increased accountability is key to ensuring better compliance with fundamental international norms to protect civilians. Let me address three points that relate to situations where populations remain vulnerable in the face of armed hostilities.

First, an indispensable building block for accountability is data on the civilian harm being experienced in conflict situations. Since the 2010 report of the Secretary-General on the protection of civilians of civilians in armed conflict (S/2010/579),

we have seen further evidence of the pattern of harm caused by explosive weapons used in populated areas in a number of country contexts, such as Côte d'Ivoire, Libya and Syria. Stronger data-gathering on the impact of explosive violence on civilians would allow us to better understand this pattern of harm and to strengthen accountability. Norway would welcome discussions with partners on this issue ahead of the next debate on the protection of civilians.

In addition, we need to enhance the effectiveness of accountability mechanisms. We welcome the commitment of the Security Council to establishing a stronger protection framework against sexual violence in conflict and for children in armed conflict, most recently through resolutions 1960 (2010) and 1998 (2011). We further encourage the Security Council to strengthen its monitoring and oversight in the area of the protection of civilians.

Secondly, the protection of civilians cannot be seen in isolation from the principle of the responsibility to protect. While it is the responsibility of States to protect civilians by promoting and protecting their human rights, the international community has a responsibility to assist in ensuring that civilians are protected from mass atrocities. The United Nations must continue to expand its range of tools for preventive capacities in order to avert mass atrocities, including a focus on crisis response through diplomatic, humanitarian and other peaceful means.

Thirdly, perpetrators of violations of international humanitarian law must be brought to justice. It is States that bear the primary responsibility to investigate and prosecute breaches of international humanitarian and human rights law. In cases where national judicial systems fail, the International Criminal Court (ICC) is an indispensable vehicle for ensuring justice and accountability. In February of this year, the Security Council for the second time used the powers granted to it by the Rome Statute to unanimously refer the situation in Libya to the Court. That is yet another acknowledgement of the fact that the ICC is a necessary tool for ensuring that perpetrators of international crimes are brought to justice. It follows that security sector reform must be given a higher priority, with a particular emphasis on the justice sector.

While respect for existing rules is of key importance, the rules of international humanitarian law also need to be continually reviewed and strengthened in order to keep up with new developments in warfare and new emerging humanitarian concerns.

Over the past 15 years, fundamental norms, such as the Mine Ban Convention and the Convention on Cluster Munitions, have been developed with a view to outlawing conventional weapons that cause unacceptable harm. We remain concerned about the ongoing efforts within the Convention on Certain Conventional Weapons to negotiate a new protocol on cluster munitions. The current draft would in fact perpetuate, rather than prevent, the civilian suffering caused by cluster munitions. These concerns are widely shared by other States, the International Committee of the Red Cross, United Nations field organizations and other humanitarian organizations. To ignore the advice of those entities and the facts they have provided on the humanitarian realities on the ground would be a very negative signal.

We urge all States to work to strengthen international humanitarian law and to keep our focus on the humanitarian realities in the field.

The President: I now give the floor to the representative of Georgia.

Mr. Tsiskarashvili (Georgia): Georgia welcomes this open debate on the protection of civilians in armed conflict. I take this opportunity to commend the Portuguese delegation's efforts in convening this important meeting.

More than 10 years have passed since the first debate was held in the Security Council on this issue, yet armed conflicts still affect millions of persons who are deprived of basic necessities and who are vulnerable to violations of their rights, displaced from their homes, targeted through indiscriminate attacks and other violations. In many cases, the principal victims of armed conflicts are women and children.

The United Nations must protect the dignity of each and every one and uphold the rights of all those who have been affected by conflicts. It goes without saying that we need to do more at the international, regional and national levels.

The August 2008 war has had devastating consequences for civilians, especially for those who have been ethnically cleansed from two regions of my country, Abkhazia and Tskhinvali region. Since our previous statements in the Council, nothing has

changed on the ground with regard to civilians living under occupation in these territories. At least 20 per cent of sovereign Georgian territory remains under illegal foreign occupation in violation of the six-point ceasefire agreement brokered by France on behalf of the European Union. Hundreds of thousands of internally displaced persons and refugees continue to suffer. They are denied their right to return to their homes and villages — a right referred to numerous times in this very Chamber. The practices of forced displacement, denial of property rights and other massive, gross and systematic human rights violations continue to occur there.

Safe and unhindered access of humanitarian actors to people in need of protection and assistance is another important element. Regrettably, the occupying Power, in clear violation of the six-point agreement, has continued to block the access of humanitarian aid and international humanitarian actors to the Tskhinvali region. Clearly, the denial of the access of humanitarian personnel to victims of conflict amounts to a flagrant violation of international humanitarian law.

Almost a year has passed since Georgia announced the non-use-of-force commitment. Although the Charter of the United Nations authorizes us to do so, Georgia has renounced military means in order to restore its territorial integrity. The relevant letters have been sent to the Secretary-General and to other international organizations, but instead of a reciprocation to that gesture of peace, the response we have received has come in the form of the illegal installation of an additional military contingent, missiles and rockets in the occupied regions. We believe that the geopolitical ambitions of one particular country cannot stand in the way of international efforts aimed at easing the plight of those suffering from forced displacement and ethnic cleansing.

Although the topic I will touch on is not technically part of the debate, it may affect the issues I have highlighted. Earlier today, Georgia and Russia signed a package of documents that pave the way for Russia's accession to the World Trade Organization. We hope that Russia can demonstrate the same level of pragmatism it has shown during these talks when it is faced with resolving other bilateral issues, first and foremost the right of more than 400,000 men, women and children to return to their homes in Abkhazia and the Tskhinvali region in safety and dignity.

One of the purposes of today's debate is to see the international community more engaged in addressing all of the relevant challenges. In conclusion, I wish to underline that Georgia fully supports and encourages the continued efforts of the international community in making the protection of civilians a reality for all of those who are caught up in conflict.

The President: I now give the floor to the representative of Slovenia.

Ms. Štiglic (Slovenia): It is my honour to speak on behalf of the members of the Human Security Network, namely, Austria, Chile, Costa Rica, Greece, Ireland, Jordan, Mali, Norway, Switzerland, Thailand, South Africa as an observer, and my own country, Slovenia.

The protection of civilians in armed conflict is a priority of the Human Security Network. We highly welcome the Security Council's attention to this key issue. While the latest report of the Secretary-General on the protection of civilians in armed conflict (S/2010/579) highlights several challenges to the implementation of the concept — including the need to enhance humanitarian access and protection by United Nations peacekeeping and relevant missions — in all brevity, we would like to reflect on three main points with regard to the issue of accountability, which we understand to be the central sub-theme of today's discussion.

First, respect for international humanitarian and human rights law and accountability for its violations are not only indispensable to the protection of civilians, but are key ingredients in achieving sustainable peace and thus preventing relapse into violence. The protection of civilians in armed conflict cannot be achieved without promoting respect for and observance by States of their obligations under international humanitarian and human rights law, first and foremost with a view to ensuring accountability in the event of grave violations. Special attention should also be given to those in vulnerable situations, such as women and children, who face great and multiple risks during conflicts.

Secondly, the Security Council plays a crucial role in helping to ensure accountability, including individual criminal accountability. On the one hand, experience shows that the use of fact-finding missions helps to strengthen the credibility of United Nations actions in response to allegations of violations of the

rules of international law on the protection of civilians, and that they pave the way to establishing individual responsibility for perpetrators of violations. Fact-finding missions ought to be used within the Security Council's respective mandates with greater regularity and frequency, while ensuring a consistent approach.

On the other hand, while it is the States' primary responsibility to investigate and prosecute violations of international humanitarian and human rights law, the International Criminal Court today stands at the centre of the system of international criminal justice to ensure justice and accountability where national judicial systems have failed. The Security Council has a key role to play in preventing impunity by referring situations to the Prosecutor of the Court. In doing so, it must be consistent. It must be able to say which cases are referred to the Court and which are not. And once it has referred a case, it must provide its full support to the Court in fulfilling its mandate.

Thirdly, the Human Security Network would like to draw the Council's attention to the recent creation by the Human Rights Council of a mandate for a special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. The new mandate was created by a consensus of all regional groups. We welcome that creation as a clear acknowledgement of the insight that accountability — along with truth-seeking processes, reparations to victims and institutional reforms designed to guarantee that past abuses do not reoccur — must be an integral part of a more holistic and people-centred approach of United Nation strategies, including on the protection of civilians in armed conflict.

As reaffirmed in its declaration of 23 September, the Human Security Network encourages promotion by the United Nations of a comprehensive approach to fostering truth, justice, reparation and guarantees of non-recurrence after gross human rights violations and serious violations of international humanitarian law have occurred, especially in the strategic and operational planning of peace operations and in the domain of donor coordination. We view the Security Council as uniquely placed to bring this to bear in the field. In that regard, we commend the World Development Report 2011 on conflict, security and development and the recently released report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2011/634).

The President: I now give the floor to the representative of Chile.

Mr. Errázuriz (Chile) (*spoke in Spanish*): At the outset, allow me to welcome Portugal's initiative in holding this important debate on the protection of civilians, an issue of particular importance to my country. I thank the Secretary-General for his important statement and Ms. Navanethem Pillay, United Nations High Commissioner for Human Rights, for her briefing. We also thank Ms. Catherine Bragg, Assistant Secretary-General for Humanitarian Affairs, and Mr. Philip Spoerri, Director for International Law and Cooperation of the International Committee of the Red Cross, for their contributions to the debate.

My delegation aligns itself with the statement made by the representative of Slovenia on behalf of the Human Security Network, to which Chile belongs.

Since the adoption of resolution 1265 (1999), the subject of the protection of civilians in armed conflict has been a permanent item on the Council's agenda. Successive debates have been held, special emphasis has been placed on the protection of women and children in armed conflict, and the concept has been incorporated into the mandates of peacekeeping operations. Chile welcomes that progress.

However, much work remains to be done. Some conflicts continue to this day, others have given way to peacebuilding processes, while regrettably, since 1999 new and bloody conflicts have emerged, to which the Council and the international community should devote particular attention and cooperation in order to bring them to an end.

I would like to focus at this time on the issue of accountability, which lies at the heart of today's debate. Accountability is the core of the protection of civilians. We cannot protect civilians, much less build just and stable societies, without an adequate system for accountability, which should be in place even during a conflict. We should not wait for peace in order to activate accountability. However, by virtue of the nature of conflict, a national system's ability to act is in all likelihood diminished, which leads to my next point.

We need an efficient national and international accountability system. In that regard, I would like to call attention to the Inter-American System of Human Rights, which has a Commission and the Inter-

American Court of Human Rights. Since their creation in 1969 with the Pact of San José, Costa Rica, both bodies, which operate in a complementary and sequential manner, have participated in the protection of the human rights of the populations of our countries. More recently, at the international level the International Criminal Court has been established, to which high profile cases have been referred, proving that impunity for human rights violations has no place in today's world.

The Human Rights Council has created commissions of inquiry to establish the facts in cases of grave human rights violations and to use them to take appropriate action. Chile has co-sponsored those initiatives, because we believe that the mechanisms established by the international community itself should be activated whenever necessary.

That brings me to my next point, which is that the sovereignty of States remains the cornerstone of international relations. In that regard, in order for commissions of inquiry of the Human Rights Council to visit countries of concern, they need those countries' permission. Chile urgently calls on States to open their doors to such commissions so that together they can duly meet their international obligations.

Moreover, the Human Rights Council, in its consensus resolution 18/7, has established the mandate of a special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. Chile supported the creation of that post; there can be no alternative. Since 1990, Chile has created three successive commissions of truth and reconciliation, which have sought the truth, and through it reconciliation among Chileans. The work does not end with one commission; reconciliation is built day after day, and in this respect human rights education plays a decisive role.

Despite the foregoing and the role that the international community needs to play in the matter of protection of civilians, the primary responsibility remains with States. It is they that need to protect their own civilian populations. In that regard, they have the duty to promote and strengthen the rule of law and judicial institutions. Those are basic elements of States and of their development and stability.

The Security Council has already incorporated the concept of the protection of civilians into numerous mandates of its peacekeeping operations, and Chile hopes that will continue to be the case. That mandate should be carried out in compliance with the guiding principles of each operation. Similarly, the matter has been incorporated in resolutions that address complex political crises, especially resolutions 1970 (2011) and 1973 (2011) on Libya. Experience teaches us that such mandates must be clear, precise and time-bound. The prestige and credibility of the Council, and of the Organization itself, depend on the clarity and specificity of its mandates, as well as on their correct enforcement.

I hope that this debate and the inclusion of the concept of the protection of civilians in relevant resolutions of the Council will serve to ensure that tragedies such as those of Rwanda or Srebenica never recur.

The President: I now give the floor to the representative of Japan.

Mr. Kodama (Japan): I would like to express my sincere congratulations to Portugal on its accession to the presidency of the Security Council, and to thank it for holding this open debate on the protection of civilians in armed conflict. I also thank the Secretary-General, the United Nations High Commissioner for Human Rights, the Assistant Secretary-General for Humanitarian Affairs, and the Director for International Law and Cooperation of the International Committee of the Red Cross for their respective briefings.

At the most recent open debate on this item (S/PV.6531), the Government of Japan welcomed the effective and timely role played by the Security Council in response to the situations in Libya and Côte d'Ivoire in May. However, the difficulties surrounding the protection of civilians in conflicts have been further complicated, as we have seen in the recent unrest in Syria and Yemen, which have witnessed an increasing number of civilian casualties.

Although the Government of Japan regrets that the Security Council failed to adopt a resolution on Syria, it nevertheless welcomes the end of conflict in Libya and stresses that the verification of actions taken during that conflict will be crucial to ensuring accountability. The Government of Japan also hopes that the Government of Libya will steadily implement a process to build a democratic State governed by law, in cooperation with the United Nations. With regard to Yemen, the Government of Japan welcomes resolution

2014 (2011) requesting that attacks against civilians be suspended and that human rights and humanitarian law be respected. My Government looks forward to the close monitoring of the implementation of that resolution.

The Security Council is responsible for international peace and security, and its role in the protection of civilians is important. Nonetheless, the Security Council needs to address the issue in a comprehensive manner, and in this regard collaboration with a wide range of partners, such as the International Criminal Court (ICC), the Human Rights Council, the Office of the High Commissioner for Human Rights, and other humanitarian agencies and regional organizations, is truly indispensable. Côte d'Ivoire and Libya are good examples of such collaboration between the Security Council and the Human Rights Council.

Securing the rule of law and ensuring that justice is done can pave the way for the prevention and suppression of conflict. It is important for the Security Council to respond promptly and to continue to fight against impunity by, for example, referring cases to the ICC, as appropriate. However, I would like to stress that in order for referrals to the ICC to be viable, the genuine cooperation of all Member States, including parties to the Rome Statute, is indispensable.

In addition, we should note that there exist other measures to ensure accountability when cooperating with the countries in question, such as dispatching an international commission of inquiry through the Human Rights Council, as well as the International Humanitarian Fact-Finding Commission, established under the First Protocol Additional to the Geneva Conventions of 1949.

There exist various mechanisms within the United Nations that contribute to the protection of civilians. The challenge remains to ensure their effectiveness. The Government of Japan is resolved to continue to make genuine efforts to ensure that the United Nations addresses the issue of the protection of civilians in armed conflict in a comprehensive and effective manner.

The President: I now give the floor to the representative of Sri Lanka.

Mr. Kahona (Sri Lanka): Let me join the previous speakers in thanking Portugal for convening this open debate under its presidency. I would also like to thank the Secretary-General, the United Nations High Commissioner for Human Rights, the Assistant Secretary-General for Humanitarian Affairs and Deputy Emergency Relief Coordinator, and the Director for International Law and Cooperation of the International Committee of the Red Cross for their presentations.

The Sri Lanka delegation associates itself with the statement delivered on behalf of the Non-Aligned movement by the representative of Egypt.

The Secretary-General's most recent report on the subject (S/2010/579), issued in November 2010, focuses on recurring and emerging concerns regarding the protection of civilians, the proliferation and fragmentation of non-State armed groups, the displacement of populations within and across borders, the predicament of women and children, and the continuing impunity in certain situations. By all accounts, in 2011, the state of civilians in conflict situations has not qualitatively improved despite the concerted efforts made by the United Nations, and the Security Council, in particular. Ad hoc approaches do not appear to achieve the desired results.

The slow change underlines that the protection task cannot be addressed solely in theoretical terms, as it requires us to be conscious of a multiplicity of different factors, ranging from political realities, socio-economic factors and basic individual rights to the proliferation of small arms and the increasing sophistication of terrorists. The use of modern technology and subtle propaganda tools by terrorist groups and their networks of sympathizers are becoming an increasing challenge in protecting civilians and require the detailed attention of the Organization. Many a time, the reality is obscured by clever terrorist propaganda. Based on the experiences of Member States, particularly those that have successfully countered terrorism, the practical realities must be seriously looked at, instead of theoretically applying a one-size-fits-all humanitarian framework.

Sri Lanka has taken serious account of the principles underlined in the Council's thematic resolutions since 1999. Its commitment is demonstrated by the manner in which Sri Lanka addressed civilian protection issues during the conflict with the very ruthless terrorist Liberation Tigers of Tamil Eelam (LTTE) and its aftermath. While adopting

a zero civilian casualty policy, at a cost to itself, despite the use of vast numbers of civilians as human shields by the terrorists, it subsequently addressed the question of the resettlement of internally displaced persons (IDPs) with remarkable speed and efficacy. The robust nature of its ongoing post-conflict reconstruction and rehabilitation and the committed pursuit of accountability and reconciliation processes are noteworthy.

In the post-conflict phase, the State has invested heavily in an ambitious development programme in the former conflict-affected areas, focusing on civilian infrastructure and livelihood development. Billions of dollars have been committed for the purpose. Sri Lanka set up special women's protection units with female police officers and women's centres in former IDP camps, and continues to provide counselling services in the north and east. The Government has given special consideration to raising the social and economic status of war widows. Bilateral assistance has already been obtained to initiate a self-employment programme for war widows in Batticaloa, in collaboration with the Self Employed Women's Association of India.

Children have been a special focus, and over 900 schools damaged during the conflict have been restored, largely using State funds. The protection of war-affected women and children is a priority for the Government, and every effort is being made to ensure that their lives are returned to normalcy as soon as possible. The role of UNICEF has been vital in that respect.

The nature of contemporary conflicts has posed new challenges to the concept of the protection of civilians. The LTTE terrorist group, for example, made the civilian population under its control a part of its military strategy. During almost three decades of combating LTTE terrorism in our country, we took the utmost care to draw a distinction between civilians and terrorists, while the terrorists callously used the civilians as a human shield. Their objective was Machiavellian. The coerced presence of thousands of civilians around the retreating terrorists was designed to slow the advance of the security forces and as a means of formulating an escape strategy for its leadership. If all else failed, it would provide a useful foundation to later develop allegations of breaches of global humanitarian standards.

Throughout the final phase of the armed conflict, from 2006 to 2009, Sri Lanka engaged with the United Nations, its agencies, the International Committee of the Red Cross (ICRC) and representatives of the international community and civil society, both in Sri Lanka and outside. The challenges that Sri Lanka faced in protecting its civilians was a challenge to the State itself and its institutions. Yet, the Government remained committed to its zero casualty policy. Our troops underwent training to distinguish between combatants and civilians. Assistance was obtained from the ICRC in the training of troops in human rights law. However, the inevitable casualties of a conflict imposed on the State, ruthlessly affected by the terrorists, are now the basis of a massive propaganda campaign.

I specifically wish to address the question of the Lessons Learnt and Reconciliation Commission, to which some delegations have referred. In keeping with the principle that it is first and foremost the responsibility of the State itself to investigate infractions of global humanitarian standards, the Government established the Commission to address a range of issues relating to the conflict — reconciliation, confidence-building, accountability, and so on. The Lessons Learnt and Reconciliation Commission was given a wide mandate that allowed it to recommend measures to ensure reconciliation and restitution for victims and to address the root causes so as to discourage the repetition of any internal armed conflict.

The independent Lessons Learnt and Reconciliation Commission conducted an exhaustive inquiry and is due to submit its report this month, which will subsequently be presented to Parliament. The Commission has made interim recommendations, many of which have already been implemented by an inter-ministerial mechanism. Sri Lanka will submit itself to the Universal Periodic Review of the Human Rights Council in October 2012, and looks forward to that interaction with the Council.

Sri Lanka takes the view that it needs to be given the time and space to deal with such issues. As President Rajapaksa said in his address to the General Assembly in September:

> "I am deeply mindful that the battle for peace is every bit as important and difficult as the struggle against terror. After the eradication of

terrorism, my Government has turned its undivided attention to building anew the foundations of a unified and vibrant nation, drawing upon the inherent strengths of our country". (*A/66/PV.19, p. 15*)

My delegation hopes that the Council discussion on the protection of civilians will facilitate practical outcomes based on ground realities, which differ from situation to situation. It is also hoped that the Council's efforts will be channelled towards assisting countries to achieve the noble goals to which we all subscribe. For that reason, my delegation has sought to share our experience, and for all of us to invest greater efforts in preventing conflicts and their recurrence and to respond practically and proportionately to situations affecting civilian populations.

The President (*spoke in French*): I now give the floor to the Permanent Representative of Morocco.

Mr. Loulichki (Morocco) (*spoke in French*): I would like first of all to thank your friendly country, Mr. President, for having organized this debate. Its ongoing consideration provides us the opportunity to take stock of progress made and best practices so as to jointly identify the areas that require additional efforts to ensure a better protection of civilians in armed conflict. The opening of this debate by His Excellency President Cavaco Silva demonstrates Portugal's active commitment to the topic. It is an interest and commitment that goes beyond Portugal's presence at the centre of the Council.

I would also like to welcome the contributions of Ms. Pillay, United Nations High Commissioner for Human Rights, and Mr. Philip Spoerri, Director for International Law and Cooperation of the International Committee of the Red Cross. Also, the presence and observations of the Secretary-General at our debate shows his personal commitment to the topic.

To be effective, the protection of civilians in armed conflict requires a comprehensive approach, bringing together the legal, humanitarian and security aspects. It is essential that the civilian and military actors under this complex and multidimensional mandate have a shared definition and a clear distribution of the tasks entrusted to them. Peacekeeping operations have certainly become more complex given their broader mandates, which have gone from strictly military to peacebuilding tasks, combining a broad range of activities, be they electoral assistance, capacity-building in the rule of law, security sector reform or institutional support.

The complexity of these new functions calls for a process to integrate the components of the peacekeeping mission, requiring a clear definition of mandated tasks and effective coordination among actors.

This is particularly true for the protection of civilians, when mandated. In that regard, we stress that the tasks of peacekeeping operations are contingent and do not replace those of the host country, which bears the ultimate responsibility for the protection of civilians. In that context, the Security Council, entrusted with the maintenance of international peace and security, must formulate realistic and clear peacekeeping mandates, in particular with respect to the protection of civilians.

Seven peacekeeping operations are now mandated to protect civilians, and most have developed civilian protection strategies. This significant development should be bolstered by mainstreaming the use of optimal protection of civilians practices in mandated peacekeeping operations. An assessment of the implementation of such strategies would also allow valuable lessons to be drawn in order to improve their effectiveness.

With regard to training, much progress has been made, particularly in the development of protection of civilians modules for Blue Helmets and the senior staff of peacekeeping operations. These many conceptual advances must nevertheless be reflected on the ground. In that context, three primary challenges must be met.

The first is that of feasibility. Blue Helmets cannot guarantee protection for all. A simple consideration of the ratios of troop levels to civilian populations should make that clear. The protection of civilians also requires significant equipment and logistical means that are often inadequate or not available to missions. This situation gives rise to the broader question of the calibration of mandates to resources.

The second challenge is that of defining tasks and a clear division of labour. Confusion continues to prevail with respect to what is expected of the military, police and civilian components of missions in the protection of civilians. This confusion leads to unrealistic expectations among locals and in

international public opinion that could undermine a mission.

The third challenge is that of sustainability. Far from being limited to civilians under imminent threat, the protection of civilians requires the support and capacity-building of the host State to ensure that the latter can fully discharge that function after the withdrawal of the United Nations peacekeeping mission.

In order to better protect civilians and allay their suffering, we must collectively strengthen respect for international law, particularly international humanitarian law and refugee law. At the normative level, States have done a good job of strengthening the lead role of the United Nations in the development of international law. Nevertheless, much remains to be done with respect to compliance and accountability. The protection of civilians in armed conflict requires the strict compliance of parties to a conflict with international humanitarian law.

Clearly, in many situations the militarization of refugee camps, counter to international law, prevents humanitarian actors from carrying out their mission of providing care and assistance to civilians. The control of civilian populations by non-State actors, working in complicity or unbeknownst to the authorities of a host country, represents another considerable challenge that the international community must meet. This grip on civilian populations often extends to the refusal to undertake the basic and natural tasks of census-taking and registration.

Many are the challenges to the protection of refugees, including the effective legal protection of that vulnerable population. It falls to the host State and the United Nations to apply international law consistently to all situations.

As the need to protect civilians in armed conflict has clearly become the very raison d'être for the United Nations presence on the ground, its implementation must follow clear and simple rules that will ensure effective protection. Today's debate will contribute to that goal.

The President: I now give the floor to the representative of Pakistan.

Mr. Durrani (Pakistan): Pakistan would like to thank Portugal for having organized this important debate on the issue of the protection of civilians in armed conflict. We warmly welcome the presence of the President of Portugal, His Excellency Mr. Aníbal António Cavaco Silva, and thank him for opening this important debate. The Pakistan delegation also commends Portugal for its able presidency of the Council for this month and for the constructive role it has played in general.

Regardless of the circumstances, attacking or killing civilians cannot be condoned. Pakistan has always condemned such acts. During a recent debate on this subject in the Security Council, Pakistan expressed its concerns over the frequent and pervasive violations of the rights of civilians around the world, in particular in the situations of foreign occupation. These violations continue unabated, and the very fact that there is no robust mechanism of accountability, in particular for those who have enjoyed continued immunity despite well-known attacks and killings of civilians on various pretexts, has led to its spread in many other instances.

The lack of accountability for such acts and the impartial or politicized handling of specific situations have resulted only in increased suffering for innocent civilians in areas of armed conflict or under foreign occupation. We hope that the Security Council, in accordance with its mandate, will take impartial and non-politicized action in all situations, in particular on those situations that have been on its agenda for decades.

Pakistan has been a strong and active supporter of the protection of civilians in armed conflict. Over the years, Pakistan has contributed to international efforts, particularly those led by the United Nations, to protect civilians in armed conflict. The most tangible demonstration of this, as members of the Council are well aware, is our participation as one of the leading troop-contributors in United Nations peacekeeping missions. We will continue to work closely within the Special Committee on Peacekeeping Operations for the development of protection of civilians strategies in peacekeeping missions, in compliance with their mandates, in accordance with international law and in full respect for the primary responsibility of host States.

The importance of objective reporting, a prerequisite for the consideration of this important issue, cannot be overemphasized. We call upon all concerned to cooperate in this exercise, and urge those

involved in the reporting of such violations to perform their duties with the utmost care and impartiality.

Pakistan would also like to reiterate the importance of framing the debate in its proper context. The Security Council should address situations arising from armed conflicts and of people living under foreign occupation. We hope that future reports on this issue will be balanced and more carefully drafted to avoid politicizing important questions relating to international humanitarian law.

Pakistan would also like to stress some of the important elements raised by a number of Member States, such as the importance of observance by all parties to an armed conflict of their obligations under the United Nations Charter and international law, including humanitarian law, which prohibits the targeting of civilian populations, properties and installations, including attacks on humanitarian personnel and relief material. The United Nations must take the lead in promoting knowledge and observance of these principles among Member States.

In conclusion, Pakistan expects that, in situations of armed conflict, the basic canons of international humanitarian law — including accountability, which is crucial to ending impunity — shall be applied.

The President: I now give the floor to the representative of Malaysia.

Mr. Haniff (Malaysia): At the outset, allow me to join others in congratulating you, Sir, on your assumption of the presidency of the Security Council for the month of November. I wish you well in that important task. I also wish to thank the Assistant Secretary-General for Humanitarian Affairs, the Director for International Law and Cooperation of the International Committee of the Red Cross and the High Commissioner for Human Rights for their presentations.

Malaysia is pleased with the Council's decision to make this meeting an open debate, which allows for the participation of the general membership of the Organization, thereby contributing further to openness and transparency in the work of the Council, to which Portugal and others are strongly committed.

My delegation also wishes to associate itself with the statement delivered by the representative of Egypt on behalf of the Non-Aligned Movement.

Since the last open debate on this topic in May (see S/PV.6531), the Council has established the United Nations Organization Interim Security Force for Abyei and the United Nations Mission in the Republic of South Sudan (UNMISS), with both peacekeeping missions having mandates on the protection of civilians. The presence of Malaysian peacekeepers in UNMISS underscores Malaysia's firm commitment and its belief that United Nations peacekeeping operations are an indispensable instrument that has contributed immensely to the resolution of many armed conflicts. However, this instrument must be wielded with great care.

While my delegation recognizes the efforts made by the Council to prevent unnecessary loss of innocent life, we reiterate that the responsibility to protect civilians lies with the host Governments to peacekeeping missions. In that regard, missions with a civilian-protection mandate should conduct their tasks without prejudice to that responsibility. My delegation also wishes to stress the importance of impartiality as a guiding principle for United Nations peacekeepers mandated to protect civilians.

Malaysia is of the view that the successful protection of civilians by United Nations peacekeeping missions requires a more comprehensive and holistic approach that incorporates the provision of resources, support and training. That should be complemented with the requisite key enablers, such as strong coordinating mechanisms and an effective flow of information. We believe that such an approach would bridge some of the existing gaps in implementing civilian-protection mandates.

One aspect of the protection of civilians that my delegation particularly feels has not been given adequate attention is the protection of journalists and media professionals. Resolution 1738 (2006) and resolution 1910 (2010) attempted to provide protection for journalists, respectively, in the general context and in Somalia. Unfortunately, that was too little, too late. I regret to inform the Council that a Malaysian journalist was killed recently while in Somalia to report on a humanitarian aid mission. In that regard, my delegation is of the view that the Council should explore the possibility of strengthening provisions to ensure the safety of journalists, within the framework of the protection of civilians.

On our part, Malaysia reaffirms its commitment to ensuring that our peacekeepers are trained to face, to the best of their ability, the multitude of challenges that are prevalent in United Nations peacekeeping operations. Last week, our peacekeeping training centre jointly organized a course with the United Nations Development Programme entitled "Promoting peace through mainstreaming gender in peacekeeping operations", which I am pleased to note included the protection of civilians as part of its syllabus. We will continue to enhance the quality of training for Malaysians, as well as foreign participants, based on United Nations best practices and our country's 51 years of experience in participating in United Nations peacekeeping missions.

Finally, allow me also to take this opportunity to pay tribute to the work of our valiant United Nations peacekeepers, who risk making the ultimate sacrifice while serving to protect civilians in conflict zones. It is only appropriate that the Council deliberates this topic with the utmost care that it deserves, given the dangers that our Blue Helmets face while carrying out their mandates.

The President: I now give the floor to Ms. Mateya Kelley, of the International Humanitarian Fact-Finding Commission.

Ms. Kelley: It is my honour to make this statement on behalf of the President of the International Humanitarian Fact-Finding Commission, who was prevented from coming to New York on short notice.

In the name of the International Humanitarian Fact-Finding Commission, I thank the Security Council and Portugal for the opportunity to speak and participate in today's important discussion. The Commission would also like to thank the delegations of South Africa, Germany, Switzerland and Japan for their support today, and the Council itself for having envisaged, in resolution 1894 (2009), of 11 November 2009, making use of the services of the Commission. I would like to reiterate the preparedness of the Commission to face that challenge. The Commission feels that there are opportunities to do so, including in particular allegations currently being made in respect of the situation in Libya.

In the name of the Commission, I would like to briefly restate reasons that the Security Council might consider for entrusting the Commission with such a task. The most important point is the legitimacy of the International Humanitarian Fact-Finding Commission as a treaty body established under the Geneva Conventions. The very treaty regime that is the source of the obligations the respect of which is at stake in the inquiries to be undertaken is also the basis for the inquiry Commission. That fact, together with an election process that ensures the independence and impartiality of its members, instils confidence in the Commission's work. We submit that this will enhance the acceptance of its findings.

There is a variety of expertise in the current composition of the Commission, which is crucial for meaningful and successful inquiry, as recommended during the excellent preparatory workshop held on 1 November. There is a medical doctor experienced in dealing with victims of violence; a psychiatrist renowned for her ability to deal with traumatized persons; former and active military or police officers; and judges and lawyers with expertise in the relevant fields of law. The Commission has continuously worked to be well prepared for such a task, by having its members participate in various field missions and practical exercises, as well as through information gathering and contingency planning.

A mandate given by the Council may certainly be elaborated in consultations. In that process, the Commission will have the flexibility required by the circumstances. The Commission considers that such a mandate, obligatory as it would be pursuant to Article 25 of the Charter, should enjoy the agreement of the parties to a conflict. We are convinced that the specific features of the Commission I have just described would facilitate obtaining such mandate and agreement. The Commission would be honoured and proud if it could thus assist in the work of the Security Council.

The President: I now give the floor to the representative of Tunisia.

Mr. Jerandi (Tunisia) (*spoke in French*): First of all, I would like to express my gratitude to the presidency of the Security Council for having organized this debate. I also thank the Secretary-General, the Assistant Secretary-General for Humanitarian Affairs, the High Commissioner for Human Rights and the Director for International Law and Cooperation of the International Committee of the Red Cross for their statements.

Tunisia associates itself with the statement made by the representative of Egypt on behalf of Non-Aligned Movement (NAM).

My delegation would first like to underscore the importance of integrating a civilian-protection strategy in the mandates of peacekeeping operations. In that regard, it is essential to develop civilian protection strategies in the context of the planning of such operations, including the full involvement of the State concerned and in close cooperation with regional organizations. Such a strategy should be based on well-defined, realistic and measurable priorities, thereby making it possible to make genuine progress on the ground.

As mentioned in the Secretary-General's latest report (S/2010/579) on the protection of civilians in armed conflict, issued on 11 November 2010, it is also important that the withdrawal of peacekeeping missions not be undertaken on the basis of an arbitrary time frame, but rather once the core objectives have been achieved, in particular with regard to the protection of civilians.

Secondly, with regard to the importance of national ownership of international instruments on human rights and international humanitarian law, as mentioned by the statement made on behalf of NAM, it is crucial to raise greater awareness and promote respect by States for their commitments emanating from their adherence to such instruments, including the four international conventions relating to refugees.

In that regard, we reiterate our deep concern about the situation of the civilian population in occupied Palestine, which has for too long been the easy target of constant, flagrant and systematic violations of fundamental rights and international humanitarian law by the occupying Power, Israel. That has prevented those people from meeting their most elementary needs and from reclaiming their right to a State — all in a climate of total impunity.

All parties to a conflict, States and non-State armed groups, must not fire upon non-military targets, particularly civilians, humanitarian personnel and journalists. The indiscriminate use of weapons and explosives in densely populated areas and the illegal arms trade have adverse effects on civilian populations in neighbouring countries, and must be banned.

Respect for fundamental rights and international humanitarian law are inseparable from the fight against impunity and the prosecution of those guilty of war crimes, genocide, crimes against humanity and flagrant violations of international humanitarian law. In the belief that it is essential to combat that phenomenon, Tunisia, having acceded to the Rome Statute some months following its revolution, deems it equally important to promote international cooperation to support justice and national reconciliation measures, especially through capacity building.

Thirdly, internal and external displacement of refugees is one of the characteristics of conflict. It is critical to encourage States to participate in protecting refugees from conflict by keeping their borders open. Convinced of the key role of neighbouring States in alleviating civilian suffering in armed conflict, my country, which hosted thousands of refugees fleeing the conflict in Libya, has just approved opening an office of the United Nations High Commissioner for Refugees, which will certainly act as a nexus of regional cooperation in humanitarian assistance.

In conclusion, it is absolutely essential to concentrate particular focus on preventive action, which is still the best means to avoid zones of tension becoming zones of conflict. In that regard, we must adopt a global approach that effectively addresses the underlying causes of conflict, especially by supporting States' efforts aimed at promoting economic growth, eliminating poverty, security sector reform, national reconciliation and propagating a culture of human rights.

The President: I now give the floor to the representative of the Sudan.

Mr. Osman (Sudan) (*spoke in Arabic*): I would like, at the outset, to express my congratulations to you, Mr. President, on your country's assumption of the presidency of the Security Council for this month, as well as thank you for devoting our deliberations today to the protection of civilians in armed conflict. I also thank you for the concept paper that you distributed to inform our discussion of this issue.

We should note that 12 years have passed since the Secretary-General presented his first report (S/1999/957) to the Security Council on the protection of civilians in armed conflict. We continue to hope that the ongoing deliberations of the Council on this subject will eventually lead to a clear, comprehensive and

holistic approach and an objective vision of the best means to protect civilians. The most important thing is to deal with the root causes of armed conflict. That, along with supporting comprehensive and sustainable political solutions, is the best way to ensure the protection of civilians.

We note that all previous reports of the Secretary-General on the protection of civilians in armed conflict, including the most recent (S/2010/579), have focused primarily on ways of activating the role of United Nations peacekeeping missions in the area of protecting civilians. In that connection, we would like to draw attention to an important fact that must be borne in mind. In many areas of conflict, the targeting of civilians is now being used by insurgents and armed groups in a premeditated way in order to inflict casualties among civilians, including women and children, so as to turn the international community against Governments and to appeal to it to intervene. Various armed groups and movements are currently deliberately attacking populated areas and using civilians as human shields — for example, in Darfur and in the recent situation in the Nuba Mountains and Blue Nile State regions, where forces of the Sudan People's Liberation Army have attacked various cities and other populated places.

The priority should always be successfully implementing peacebuilding efforts and political settlements by compelling armed groups to enter into peace negotiations and political processes to achieve their demands, rather than resorting to military action and attempting to deceive international public opinion by causing casualties among civilians. Needless to say, practical experience in various countries has clearly proven that peacekeeping missions, however capable they may be when it comes to providing protection, will not be able to achieve their desired goals in the absence of peace itself. Peace provides the primary protection for civilians.

Further protecting civilians entails swiftly implementing development projects, relief and reconstruction efforts, carrying out demilitarization and reintegration, and quickly restoring public services, so as to allow for the return and resettlement of internally displaced persons (IDPs). Such steps also contribute to encouraging civilians to leave IDP camps, return to their homes and resume normal activities. In that context, we appeal to the Security Council, and through it to all members of the international community, to support the peace efforts of the Government of the Sudan through the Doha Document for Peace in Darfur, whose implementation has already begun in order to achieve lasting peace in Darfur.

The principle of the protection of civilians in armed conflict, to which we all aspire, is a noble one. What is troubling, however, is that efforts are being made to use this principle to achieve specific political objectives — such as in the case of the current propaganda for the so-called responsibility to protect. We would like to emphasize in this forum that, although the principle of the responsibility to protect was incorporated into the Outcome Document of the Millennium Summit in 2005 (General Assembly resolution 60/1), it remains, as the Council well knows, subject to varying interpretations by Member States in the light of the solid foundations established in the Charter of the United Nations concerning respect for Member States' sovereignty, legitimacy and primary full responsibility for the protection of their civilians. I should also like to remind the Council that the right of civilians to protection in armed conflict is only one component of the comprehensive and closely linked host of rights and duties that were reaffirmed in the Outcome Document of the Millennium Summit. Primary among those are achieving development, combating poverty and preventing conflicts by dealing with their root causes and, as I explained earlier, by having the Security Council play an active role in supporting and leading efforts for political reconciliation and resolution. That role should be complemented by the parallel role of the Secretariat and the various agencies dealing with humanitarian issues, and include the promotion of economic growth, reconstruction, recovery and sustainable development.

Lastly, I would like to comment on some points made in various statements. We have heard about the human rights situation in Abyei. I would like to emphasize that the current state of affairs in Abyei is the best it has been in the terms of human rights and the humanitarian situation, if we compare the situation now to what it was before May, when the forces of the popular movement were present. Since the restoration of order in May and the arrangements that were put in place, I can assure the Council that not a single incident conducive to instability in the area has taken place. This should not be overlooked by anyone. We hope that the internally displaced persons will return to

their villages once order and security are completely restored — a process that has already begun.

I should also like to refer to another point raised in the statement by the High Commissioner for Human Rights that also is contrary to the facts. Referring to disturbing reports, the High Commissioner called for an inquiry into the human rights situation in Blue Nile and Southern Kordofan States. I would like to inform the Council that this is not true. And I would also like to remind the Council of the national committee that was established by the Ministry of Justice, which has accomplished much of its work. We will soon inform everyone about its results. Any call for an inquiry outside the national context would then be illogical and unrealistic. The current situation in those two areas is stable. Internally displaced persons have returned to their homes following the defeat of the insurgents.

Finally, I would advise the staff of international agencies to seek out the facts in order to preserve the credibility needed to support, and ensure respect for, their work in all areas of conflict.

The President: I now give the floor to the representative of the Bolivarian Republic of Venezuela.

Mr. Valero Briceño (Bolivarian Republic of Venezuela) (*spoke in Spanish*): We congratulate you, Mr. President, on Portugal's assumption of the presidency of the Security Council for this month, and wish you success in your duties. We are grateful to you for scheduling the subject of the protection of civilians in armed conflict for discussion in this open debate.

The Security Council frequently acts selectively when it comes to choosing which civilians merit protection and which do not. While dealing with this issue it is not unusual for a double standard to be applied. Some members of the Security Council, while promoting resolutions supposedly in order to protect civilians, are actually seeking a position of political and economic hegemony for themselves over developing countries. This deplorable practice distorts the principles established in the Charter of the United Nations and degrades the noble goal of protecting civilians. It is immoral to use the noble concept of the protection of civilians in order to overthrow Governments in developing countries, to despicably interfere with the internal affairs of sovereign States, and to benefit transnational corporations that profit cynically from countries' destruction and reconstruction. Some imperialist Powers have interpreted the protection of civilians in self-serving ways, thereby worsening national conflicts and compromising the reliability and impartiality of the United Nations.

It is therefore commendable and noteworthy that in today's Council debate, several countries have condemned the unscrupulous use of Security Council resolutions, such as resolution 1970 (2011), for furthering petty political and economical interests. Those countries have spoken out on behalf of the peoples of the world who are calling for peace, justice and coexistence in solidarity among nations. The protection of civilians in armed conflict should be carried out by peaceful means. Diplomacy and dialogue are the most appropriate ways to protect civilians and the best guarantee of achieving international peace and security. Using military force is neither the sole or best way to protect civilians. In those extreme cases where it is necessary, its application should be based on the principle of proportionality.

The economic greed of some Powers, which need to perpetuate their neocolonialism to ensure their own survival, is the main threat to human life in the world. The growing influence of big economic and financial transnational corporations on the decisions taken by various agencies of the United Nations system, particularly the Security Council, is therefore deplorable.

We recognize the importance of the expressions of democracy that have been demonstrated in North Africa and the Arab and Islamic world. The Venezuelan people stand in solidarity with the legitimate aspirations of all peoples of the world who seek, in a sovereign manner, to achieve their human rights and enjoy democracy, freedom and independence. The people are the only owners of their own destinies, and therefore cannot countenance continuing foreign interventions by imperialist Powers in the internal affairs of the countries of the South, carried out on the pretext of protecting civilians.

Inequality, poverty, unemployment, the inequalities of the international economic system and foreign domination and occupation are all causes of conflict in many countries around the world. To prevent civilian conflict, what is needed first and foremost is to promote policies of social justice. That

should be the approach taken in international cooperation.

The Bolivarian Government believes that attacks on civilians must be condemned regardless of who is responsible. Attacks on civilians and civilian targets are prohibited under international law, yet the world has witnessed indiscriminate attacks on innocent people, using missiles and bombs, which have caused thousands of deaths in the name of the protection of civilians.

The Security Council has acted selectively, as some of its members have acknowledged today, in choosing which civilians deserve protection. It also uses the sanctions regime to punish the Governments and peoples of developing countries. In contrast, it remains silent in the face of massive human rights violations, such as those committed against the Palestinian people. Why is protection not given to the Palestinian civilians whose human rights are systematically violated?

The notion of the responsibility to protect has been manufactured by the ideologues of neoliberalism and unbridled capitalism so as to trespass on the sovereignty and self-determination of nations. The responsibility to protect is a lethal weapon used by imperialists to justify and impose their interests. Its most ardent proponents are precisely those countries that, in the past, implemented colonial policies and subjugated the peoples of the South.

This notion is a reformulation of the old imperialistic political theories. The Western Powers claimed back then that their superior civilization gave them the right to invade sovereign nations, supposedly to distance them from their allegedly barbaric practices. That ominous history gave rise to the international regime of protectorates, established by the League of Nations.

We categorically declare that the responsibility for the protection of civilians is solely the purview of States, and that any assistance given by the international community, as applicable, must always have the consent of the affected State.

By delegitimizing the principle of sovereignty — the main political institution of the post-war international order — the imperialists and neoliberals are rejecting the fundamental principles of the Charter of the United Nations.

In the name of the responsibility to protect, acts of aggression have been carried out that violate international law, international humanitarian law and international human rights law. The case of Libya has been emblematic in that regard. The so-called collateral damage of death and destruction wrought by NATO in that country must be thoroughly examined by the Council, as suggested by some of its members. That collateral damage has a human face, seen in the children, the women and the elderly of Libya, which cannot be forgotten, and it cannot go unpunished, as those who caused it would wish.

The President: I now give the floor to the representative of the Syrian Arab Republic.

Mr. Ja'afari (Syrian Arab Republic) (*spoke in Arabic*): First of all, I would like to stress the importance of the political and legal analysis just given by my colleague, the Permanent Representative of Venezuela.

The international community has understood that the issue of the protection of civilians cannot be dealt with selectively or on a discretionary basis, but is exclusively limited to situations of armed conflict. We therefore believe, along with the majority of the international community, that the protection of Palestinian, Syrian and Lebanese civilians suffering under Israeli occupation is part and parcel of this much-appreciated international effort in the context of the full and impartial implementation of the mandate to protect civilians in armed conflict. I say this in particular because the Security Council has long been involved in debating this important matter, while Israel, rightly referred to as the occupying Power, has all the while continued its gross violations against civilian populations in occupied Arab territories.

We are concerned that some of the countries whose representatives have delivered relevant statements on the protection of civilians in armed conflict during today's debate have sometimes espoused their own special and selective views of civilians and armed conflicts. Those views contradict international humanitarian law and international jurisprudence. We are also concerned that some countries are trying to transform the suffering of civilians in some areas of conflict into unacceptable and controversial academic debates, which does not help to alleviate the suffering of civilians.

Jurisprudence has shown that international efforts to protect civilians in armed conflict must be carried out in strict observance of the principles of the Charter of the United Nations — which affirm the need to respect the sovereignty of States, their political independence and their territorial integrity, as well as the principle of non-interference in their internal affairs — and be consistent with the provisions of the Geneva Conventions and international humanitarian law. Every international instrument has affirmed that national Governments bear the primary responsibility for protecting their own citizens, and that such responsibility is exclusive and cannot be substituted for or influenced by any given political agenda.

We must therefore not confuse the issue of the protection of civilians, on the one hand, with threats to international peace and security, on the other. We must also avoid using loose interpretations of the question of the protection of civilians, as well as the use of controversial terminology outside United Nations documents and materials, such as the responsibility to protect and humanitarian intervention. Were that to happen, it would inevitably jeopardize the credibility and neutrality of the United Nations, be it at the level of Member States or the Secretariat. That will, in turn, lead to the undermining of the noble efforts made to protect civilians in armed conflicts. Paradoxically, while concepts of international law — in its two divisions, namely, public law and international humanitarian law — have developed over the past several decades, the suffering of civilians has worsened. Indeed, the number of conflicts has also increased. Those countries that have militarily occupied other countries in violation of international law, and have shown disrespect for the principles of international humanitarian law have benefited from impunity.

Allow me to put the following questions to the Council. Have the occupation and military invasions of Member States of the United Nations and the killing of millions of innocent citizens furthered the goal of providing protection for civilians, while some countries in the Council today, and on previous occasions, have called for regime change in some countries under the pretext of providing protection for the civilians of those countries? Was this call seen as a noble objective allowing for the protection of civilians in armed conflicts? Are such pretexts consistent with the provisions of the Charter? Does the suffering of millions of civilians resulting from unilateral financial and economic sanctions serve the well-being of the citizens? Does it protect them or does it weaken them, jeopardizing their right to live in dignity and development?

How can we explain how some NATO members have killed 130,000 Libyan civilians on the pretext of protecting civilians in that country? How can we understand the explicit call by the spokesperson of the United States Department of State to armed groups in Syria not to turn themselves in or their weapons to the authorities of the Syrian Government, in line with the Syrian Government's decision to grant amnesty to all those who turn themselves and their weapons in to Government authorities? Does this not mean that the United States is publicly and directly involved in exacerbating discord and violence in Syria? Discord and violence have caused our people — our army, police and civilians — a lot of innocent victims.

Should this incitement to armed groups to continue their criminal acts against the State and civilians not be reason enough to hold those who were responsible for the incitement accountable, at least in the framework of providing protection for civilians? Does the United States policy, supported by some European countries, jeopardize the work of the Arab League and its initiative aimed at putting an end to the crisis in Syria and restoring security and stability for its civilian population? Is remaining silent towards Israel's blatant settlement activities, which jeopardize the principle of peace, not a contradiction of the most fundamental rights of Palestinian and Syrian civilians to live in their homelands in freedom and sovereignty?

We do not know how long we can close our eyes to Israel's continued inhumane practices and its occupation of Arab territories, including the Syrian Golan, Jerusalem, the Sheba'a farm lands and al-Ghajar village. Why do we not see the same degree of enthusiasm expressed in dealing with Israeli acts of aggression by some countries that express their keen interest in providing protection to civilians in some parts of the world? They have used the Security Council, which specializes in international peace and security, to adopt a flawed and erroneous interpretation of the question of providing protection for civilians in armed conflict. That interpretation serves their interest in interfering in the internal affairs of Member States without any accountability. We have not heard any responsible United Nations official who has taken part

in this important debate speak about the illegality and illegitimacy of the unacceptable interference in the internal affairs of Member States, pursuant to the provisions of Article 2 of the Charter.

Those colonial countries, particularly France and the United Kingdom, which spoke this morning before the Council and used indecent terms against my country, are wrong to think that human memory is too short to recall the crimes against humanity that they perpetrated during the eras of colonialism and slavery. Is apologizing for these crimes compatible with the concept of the protection of civilians? Or are there different categories and classes of civilians — some from the North, some from the South? Are they not equal as human beings?

The President: I now give the floor to the representative of Liechtenstein.

Mr. Wenaweser (Liechtenstein): We are a member of the Group of Friends on behalf of which the representative of Switzerland made a statement earlier in this debate, raising important issues, including the question of reparations and amends. My remarks today will concentrate on one single topic: the practice of the Security Council in exercising its competencies under the Rome Statute of the International Criminal Court, which was a central topic of the workshop that the Portuguese delegation organized in preparation for this debate. We commend that very useful initiative as a way to make thematic debates in the Council more meaningful.

The Security Council has a double competence under the Rome Statute. First, it may refer situations to the Court and, secondly, it may defer ongoing investigations or prosecutions for a renewable period of one year. These two functions are complementary, but they are not precise mirror images of each other. The deferral power is limited in time and requires an active decision of the Council to be renewed, while the referral is a one-time and irreversible act. It is also worth noting that a decision to refer a situation does not automatically trigger an investigation. That decision remains with the Prosecutor and is based on the merits of the case. As a third function, the Security Council will have a role to play with regard to exercising the Court's jurisdiction over the crime of aggression — once the relevant regime under the Rome Statute is activated, which can be no earlier than January 2017.

In its history, the Council has resorted twice to the use of article 16. It adopted resolutions 1422 (2002) and 1487 (2003), which are widely considered as contradicting both the Rome Statute and the Charter of the United Nations. Also, it has made two referrals by adopting resolution 1593 (2005), on the situation in Darfur, and resolution 1970 (2011) on the situation in Libya. There is no doubt that the unanimous adoption of resolution 1970 (2011) in particular was a landmark in the Council's engagement on individual criminal accountability, and that it is of outstanding importance for the international acceptance of the Rome Statute system.

States parties to the Rome Statute have therefore, for the most part, celebrated these referrals as significant gains in the fight against impunity. We agree with that assessment. But we also believe that referrals are not automatically effective tools in the fight against impunity and, by extension, for the protection of civilians. This is therefore a good moment for the Council to reflect on its role vis-à-vis the Court, to the mutual benefit of both the Council and the Court.

The most important element in making referrals effective is follow-up action by the Council, in particular where cooperation with the Court is lacking. Such cooperation is a legal obligation for the State in question under Chapter VII of the Charter, and for all States parties to the Rome Statute. The Council has a broad range of means available to promote and enforce such cooperation, but has so far not made use of them. They could lead to ineffective and prolonged proceedings before the Court that are expensive and create a perception of ineffectiveness, compounded by accusations of political bias.

For the Council, the effects could be equally damaging, leading to the view that the referral was less an expression of a genuine commitment to ensure accountability for the most serious crimes under international law, than a decision based on political expediency of the time. That is particularly true for the practice of exempting certain categories of persons from the referral decision — a practice that may at some point have to stand the test of the Court's judicial scrutiny.

There are, of course, quite different perspectives among individual Council members on this issue, given that some are, and some are not, parties to the Rome

Statute. Finding the strongest possible support for referral decisions — ideally unanimous — is therefore a key component in that respect.

The Council has a rich experience as a source for mechanisms to provide for individual criminal accountability, dating back to the early 1990s. The models it has adopted have been diverse in nature, ranging from ad hoc to hybrid tribunals, incorporating various financing modalities. They are still actively functioning, and a final lessons learned exercise is therefore not possible at this moment. It seems clear, however, that this chapter of the Council's history is largely a thing of the past. For political and financial reasons, it is unlikely that the Council will continue to establish tribunals for specific situations on a regular basis. Referrals to the Court will therefore likely become the main tool of the Council to act in situations where genocide, crimes against humanity and war crimes, and eventually crimes of aggression, have been committed with impunity.

Resorting to the services of the Court will, however, also require a fresh look at the financing of such investigations. Under the current practice, those costs are shouldered by the States parties to the Rome Statute. This is at odds with the treaty, which foresees a system under which the United Nations membership should bear the costs arising from a Security Council mandate — just as the Court reimburses the United Nations for its services.

For example, the costs for the Libya investigation next year will amount to a projected €7 million. That is not much money compared to the costs of some of the accountability mechanisms set up by the Council, not to mention other activities it has mandated. But it represents an increase of more than 5 per cent in the Court's budget. Competence in that respect of course lies with the General Assembly, not with the Council. We therefore hope that a constructive discussion can be held in the appropriate forums in order to bring this issue to a successful conclusion.

The President: I now give the floor to the representative of Azerbaijan.

Mr. Mammadaliyev (Azerbaijan): At the outset, I would like to thank you, Sir, for organizing this important debate on the protection of civilians in armed conflict.

Azerbaijan aligns itself with the statement delivered today on behalf of the Non-Aligned Movement. I would like to make a few additional remarks in our national capacity.

Indeed, civilians continue to suffer from inadequate protection in situations of armed conflict. A defining feature of most, if not all, conflicts is still the failure of parties to respect and ensure respect for their obligations to protect civilians. The heightened vulnerability of civilians in wartime — in particular that of forcibly displaced persons, refugees, women and children — brings an element of urgency to our protection efforts and to the imperative of restoring the rule of law.

Particular consideration must be given to the protection of civilians in armed conflicts that have been aggravated by population displacement and foreign military occupation. There is an increasing recognition of the need to address the impact of conflict on housing, land and property, particularly in relation to the return of internally displaced persons and refugees.

More focused efforts are required in order to put an end to illegal policies and practices in occupied territories, including forced demographic changes, destruction and appropriation of historical and cultural heritage, and various forms of economic activity that directly affect the property rights of the inhabitants who are considering returning to their places of origin.

It is crucial that recognition of the right to return, along with increased attention to its practical implementation and concrete measures aimed at overcoming obstacles that prevent return, be applied more systematically by the international community. Ensuring the right to return constitutes a categorical rejection of the gains of ethnic cleansing and offers important measures of justice to those who have been displaced from their homes and land and deprived of their property, thereby removing a source of possible future tension and conflict.

Azerbaijan is of the view that the lack of agreement on political issues should not be used as a pretext to avoid addressing problems caused by continued and deliberate disrespect for international humanitarian and human rights law in situations of armed conflict and foreign military occupation. The fact that illegal situations persist due to political

circumstances does not mean they should be tolerated and allowed to go on forever.

We therefore proceed based on the importance of reaffirming, with regard to such situations, the continuing applicability of all relevant norms of international humanitarian and human rights law in efforts to invalidate actions aimed at consolidating military occupations; in initiating urgent measures to eliminate the adverse effects of such activities; and in order to discourage any further practice of the same or similar nature.

In that regard, it is important to emphasize that ending impunity is essential not only in order to prosecute those responsible for war crimes, crimes against humanity, genocide and other serious violations of international humanitarian law and human rights law, but also for ensuring sustainable peace, justice, truth, reconciliation and the rights and interests of victims, as well as the well-being of society at large.

Any steps aimed at advocating the culture of impunity, including propagating wars of aggression, glorifying perpetrators of the most serious international offences or promoting odious ideas of racial superiority, will contribute to further violations of humanitarian law and human rights law, in particular with respect to the uprooting of peoples from their homes as a result of continued acts of foreign military intervention, aggression and occupation.

The President: I now give the floor to the representative of Armenia.

Mr. Nazarian (Armenia): Mr. President, thank you for organizing this essential debate. It is commendable that the Security Council has continued the practice of holding open debates on the protection of civilians, featuring presentations from the United Nations High Commissioner for Human Rights that offer analyses of the Council's action as compared with previous years and also touch upon important developments.

We would like to join previous speakers in thanking Secretary-General Ban Ki-moon, for his active involvement in addressing this important subject.

The frequency with which the Council addresses this issue signifies the urgency of the matter and the need for the international community to fulfil its commitment to protecting civilians through the implementation of the provisions of international humanitarian law. We therefore share the views expressed by the Council members and other speakers calling for more systematic attention to protection. We believe that that should be completely reflected in the deliberations of this body. We also believe that increased efforts to fighting impunity at the national and international levels are essential.

Armenia therefore welcomes the initiative of Portugal to hold this open debate. We see this as an opportunity to recap and reflect on the Council's past year of experience in addressing matters that involve the protection of civilians, as well as to highlight the priority aspects for united practical action. In a lessons learned process, this debate should also enable the Council to more effectively address specific concerns related to the protection of civil populations. The Council needs to send a clear message to all parties in armed conflicts, reminding them of their obligations and condemning violations of international humanitarian and human rights law.

We welcome the fact that in the past the Security Council made several important decisions regarding the protection needs of vulnerable groups during armed conflicts. Unfortunately, despite the existence of international legal instruments and normative mechanisms, innocent civilians — including women and children, refugees and internally displaced persons — and international humanitarian personnel, continue to suffer in conflict situations.

Armenia believes that the Security Council should further contribute to strengthening the rule of law and to upholding international law also by supporting criminal justice mechanisms. We align ourselves with the statement made earlier in this Chamber that the best way to promote the protection of civilians is to promote the rule of law. The notion of the rule of law represents a concept that is diametrically opposed to the rule by force or the use of force. This principle stipulates a framework of peaceful conflict resolution and democratic governance. Strengthening the rule of law based on justice and accountability therefore requires a deeper commitment and a broader vision of the future. Ensuring such accountability and enhancing compliance with international legal obligations by the parties to a conflict should be viewed as a key element of the Council's responsibility to maintain international peace and security.

It is also important for the Council to focus on the protection of civilians within the overall process of the peaceful resolution of disputes. Our approach must be built on the understanding that any comprehensive resolution should impartially and fully address the root causes of the conflict under discussion in order to prevent recurrence in the future. It should also provide reliable and adequate security protection guarantees to the populations concerned, thus ensuring their sustainable development.

The President: There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 6:05 p.m.